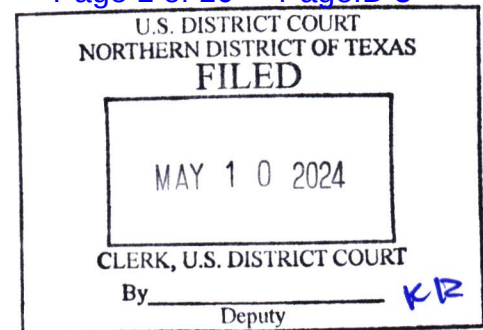


SEALED

300 011798
 David Abrams, Attorney at Law (NY 3051604)
 PO Box 3353 Church Street Station
 New York, NY 10008
 212-897-5821 dnabrams@gmail.com



United States District Court
 Northern District of Texas

United States of America ex rel.
 GNGH2 Inc.,
 Plaintiff-Relator,

- against -

SW NORTH AMERICA INC.,
 Defendant.

TO BE FILED UNDER
SEAL

3 - 24 CV 1123 - N

Case No.

Complaint Under the False
Claims Act

Plaintiff-Relator, complaining of the Defendants by its attorney, David
 Abrams, Attorney at Law, respectfully sets forth and alleges as follows:

I. Nature of the Case

1. This is a false claims act claim. The Qui Tam Plaintiff and Relator, GNGH2 Inc. ("Relator"), alleges that the Defendant fraudulently obtained CARES Act disaster relief by means of fraudulent certifications of eligibility. As set forth in more detail below, second-round PPP funding is barred to entities which are owned by concerns with significant operations in the People's Republic of China and to entities which exceed size standards.

II. Parties

2. Defendant SW NORTH AMERICA INC. ("Defendant") is a Michigan corporation with a principal place of business in New Hudson, Michigan.

3. The Relator, GNGH2 Inc. ("Relator" or "Plaintiff") is a New Jersey corporation with a principal office in Bergen County, New Jersey.

III Compliance with Requirements of Suit

4. This matter will be filed under seal pursuant to 31 U.S.C. Section 3730(b) and at or about the same time, a copy of the Complaint, any Sealing Order, and Relator's disclosure of evidence will be served on the Department of Justice and the United States Attorney for the District in which this matter has been filed.

5. Relator will not serve the Complaint or any other papers in this matter until and unless it becomes unsealed. Thus, if the Complaint is served on the Defendant, it means that the matter has been duly unsealed.

IV. Jurisdiction and Venue

6. This Court has jurisdiction pursuant to 31 U.S.C. Section 3732(a) which provides that this type of action may be brought in any district where any Defendant resides or transacts business. In this case, the loan at issue was obtained through Comerica Bank in **Dallas County, Texas**.

V. Background

7. Throughout most of 2020 and continuing into 2021, the United States was faced with a large scale outbreak of the virus commonly known as "Coronavirus" and "COVID-19." (the "Coronavirus Epidemic").

8. In addition to the Coronavirus Epidemic itself, the United States was faced with large scale outbreaks of panic and hysteria as a result of the Coronavirus Epidemic.

9. All of the above has resulted in major economic disruption and as a result Congress enacted the Coronavirus Aid, Relief, and Economic Security Act, commonly known as the "CARES Act."

10. The CARES Act contains a provision which permitted qualifying business which were affected by the foregoing disruption to obtain forgivable disaster loans.

11. The CARES Act was subsequently amended to provide for a second round of disaster funding. Significantly, an applicant is ineligible for such funding if is owned by a concern with significant operations in the People's Republic of China or if, when combined with its affiliates, it exceeds applicable size standards.

[continued on next page]

12. The Defendant in this matter is firm which supplies machining equipment.

It received second draw PPP disaster relief as follows:

Date	Amount	Loan #	Forgiven
3/26/2021	\$1,204,400	2908068606	9/20/2021

13. Thus, on or about March 26, 2021, Defendant completed Form 2483-SD

which required it to certify as follows:

The Applicant is not a business concern or entity (a) for which an entity created in or organized under the laws of the People's Republic of China or the Special Administrative Region of Hong Kong, or that has significant operations in the People's Republic of China or the Special Administrative Region of Hong Kong, owns or holds, directly or indirectly, not less than 20 percent of the economic interest of the business concern or entity, including as equity shares or a capital or profit interest in a limited liability company or partnership; or (b) that retains, as a member of the board of directors of the business concern, a person who is a resident of the People's Republic of China

14. This certification was false when made as set forth below.

15. At all times relevant to this matter, the Defendant was a subsidiary of an entity known as Süddeutsche Beteiligung GmbH which has significant operations in China. Additionally, the Defendant and its affiliates did not conform to the SBA's applicable size standards in contradiction to another certification.

16. Moreover, the foregoing information is available on the websites of the Defendant and/or its corporate parent.

17. Thus, Defendant's authorized representative must have been either aware of this information or reckless in regards to same.

18. Thus, Defendant made a fraudulent representation when it completed form 2483-SD and certified eligibility in respect of the above matters.

19. As a result of these statements, the Defendant received (and the United States paid) substantial funds to which it would not otherwise have been entitled.

VI. (Count I) Violation of the False Claims Act

20. The False Claims Act imposes liability on a person or entity who "knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim" 31 U.S.C. Section 3729(a)(1)(B)

21. The Courts have held that this can include false statements regarding eligibility to participate in a program. See *United States ex rel. Kirk v. Schindler Elevator Corp.*, 601 F.3d 94, 116 (2d Cir. 2010), rev'd on other grounds, 131 S.Ct. 1885 (2011) ("[C]laims may be false even though the services are provided as claimed if, for example, the claimant is ineligible to participate in the program.")

22. Thus, the Defendant's certifications of eligibility violated the False Claims Act because they were false and required for eligibility for disaster relief.

VII. Relief Sought

23. On behalf of the government, Relator is seeking judgment for triple damages and civil penalties set forth in 31 U.S.C. Section 3729.

24. The United States paid some \$1,210,555.82 in principal and interest in respect of the above loan.

25. Additionally, the United States paid \$36,316.67 in processing fees in respect of the above loan.

26. Accordingly, Relator seeks judgment in the amount of \$3,740,617.48 against the Defendant and in favor of the United States, together with costs, interest, civil penalties, an appropriate qui tam award, and such other and further relief as the Court deems just.

Respectfully submitted,



David Abrams, Attorney at Law
Attorney for Relator
GNGH2 Inc.

PO Box 3353 Church Street Station
New York, NY 10008
Tel. 212-897-5821
Fax 212-897-5811

Dated: Delhi, New York
May 8, 2024

RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
-----------	--------	--------------	-------	------------

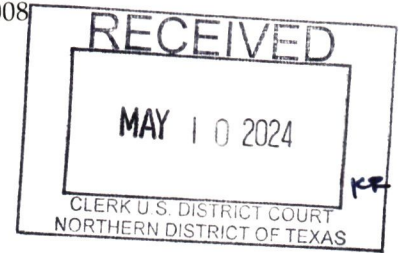
David Abrams, Attorney at Law

PO Box 3353 Church Street Station, New York, NY 10008

Tel. 212-897-5821 Fax 212-897-5811

Delhi, New York

TO BE SUBMITTED UNDER SEAL



May 8, 2024

To: Clerk of the Court
United States District Court Northern District of Texas
1100 Commerce Street, Room 1452
Dallas, TX 75242

Re: United States ex rel. GNGH2 Inc. v. SW North America Inc.

Dear Sir / Madam:

I represent the Relator in the above-referenced matter. I am respectfully submitting for filing *under seal* an original and 1 copy of (1) complaint; (2) civil cover sheet; (3) Certificate of Interested Parties; and (4) Motion for Temporary Relief from Local Counsel Requirement.

In addition, I am submitting a check in the amount of \$405 and a self-addressed envelope.

I am requesting that you process the above documents and provide me with a file stamped copy of the complaint for service on the United States Attorneys Office and the Department of Justice.

Thank you for your attention to this matter.

Sincerely yours,

David Abrams

Enclosures

Generated: May 10, 2024 11:40AM

Page 1/1

U.S. District Court**Texas Northern - Dallas**

Receipt Date: May 10, 2024 11:40AM

David Abrams, Attorney at Law

Rcpt. No: 300011798

Trans. Date: May 10, 2024 11:40AM

Cashier ID: #KR

CD	Purpose	Case/Party/Defendant	Qty	Price	Amt
200	Civil Filing Fee- Non-Prisoner	FBO: GNGH2	1	405.00	405.00

CD	Tender			Amt
CH	Check	#2798	05/8/2024	\$405.00
Total Due Prior to Payment:				\$405.00
Total Tendered:				\$405.00
Total Cash Received:				\$0.00
Cash Change Amount:				\$0.00

Only when the bank clears the check, money order, or verifies credit of funds, is the fee or debt officially paid or discharged. A \$53 fee will be charged for a returned check.

This packaging is the property of the U.S. Postal Service® and is provided solely for use in sending Priority Mail Express® shipments.

PRIORITY MAIL EXPRESS
FLAT RATE ENVELOPE
POSTAGE REQUIRED

PRESS FIRMLY TO SEAL



PRESS FIRMLY TO SEAL

**PRIORITY
MAIL
EXPRESS®**

**FLAT RATE
ENVELOPE**
ONE RATE ■ ANY WEIGHT

To schedule free Package Pickup,
scan the QR code.



USPS.COM/PICKUP



EP13F October 2023
OD: 12 1/2 x 9 1/2

ONAL USE
ERE

omestic

urance

nd

rding

Y BE REQUIRED.

E	US POSTAGE IMI 943240506091958 2000391498 \$30.45 SSK PHE 1-DAY
05/08/24 Mailed From 07020 029M2311538	
PRIORITY MAIL EXPRESS 1-DAY®	
7.30 oz RDC 07	
C001	
DAVID ABRAMS PO BOX 3353 NEW YORK NY 10008-3353	
SHIP TO: INTAKE CLERK USDC NDTX STE 1452 1100 COMMERCE ST DALLAS TX 75242-1310	
WAIVER OF SIGNATURE REQUESTED SCHEDULED DELIVERY DAY: 05/08/24 06:00 PM	
USPS TRACKING® NUMBER 9570 1066 5926 4129 5370 14	

